

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 8/13/08

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EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION & MARTHA NYAKIM  
GATKUOTH, Intervenor Plaintiff,

Index No. 07 Civ. 8256 (AJP)

Plaintiffs,

*J. D. D. R.*  
STIPULATION EXTENDING  
TIME FOR PAYMENT

-against-

TAVERN ON THE GREEN LTD. P'SHIP  
d/b/a Tavern on the Green,

Defendant.  
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This Stipulation to Extend Time is being made and entered into this 31 day of July, 2008, by and between Intervenor-Plaintiff, Martha Nyakim Gatkuoth ("Ms. Gatkuoth") and Defendant, Tavern on the Green Ltd. P'ship ("Tavern").

WHEREAS, on or about December 7, 2007, Ms. Gatkuoth intervened as a Plaintiff in the above encaptioned action (the "Action"), in which she asserted discrimination, harassment, and retaliation on the basis of sex, race, and national origin during her employment with Tavern; and

WHEREAS, the parties, desirous of amicably resolving the matter, executed an Agreement and Release of All Claims ("Agreement") on May 29, 2008; and

WHEREAS, pursuant to the Agreement and for good consideration Ms. Gatkuoth voluntarily dismissed her Complaint in the Action, which voluntary dismissal was filed on June 3, 2008; and

WHEREAS, pursuant to the Agreement, Tavern agreed to make certain payments to and on behalf of Ms. Gatkuoth as referenced therein (the "Settlement Amount") as full settlement

and final satisfaction of any and all claims Ms. Gatkuoth has or may have against Tavern and/or its Releasees as set forth in the Agreement; and

WHEREAS, pursuant to the Agreement and the mutual covenants contained therein the Settlement Amount remains justly due and owing and is due on August 2, 2008; and

WHEREAS, Tavern, by its attorneys, has requested additional time to make such payment; and

WHEREAS, as consideration therefor, Ms. Gatkuoth requires the further terms of this Stipulation;

NOW, THEREFORE, it is hereby stipulated and agreed by and between the parties hereto as follows:

1. Tavern's time to pay the Settlement Amount due and owing under the Agreement on August 2, 2008 is hereby extended to September 17, 2008.
2. In consideration of such extension of time:
  - i) The parties agree that, in the event that Tavern defaults on its obligations under the Agreement as extended herein and fails to pay the Settlement Amount by September 17, 2008, Ms. Gatkuoth may make an ex-parte application to the Court, based on this Stipulation and the Agreement, to reopen the Action solely for the purpose of entering judgment in favor of Ms. Gatkuoth upon the terms set forth in this Stipulation and the Agreement; and further

- ii) Upon reopening of the Action, Tavern hereby authorizes entry of such judgment by confession upon the terms of the Agreement as provided in the Judgment by Confession annexed hereto as Exhibit A; and further
- iii) Upon the execution of this Stipulation, Tavern shall pay Davidoff Malito & Hutcher LLP the amount of Five Thousand (\$5,000.00) dollars as and for attorneys fees expended in the negotiation and finalization of this Stipulation.

3. The parties agree that no application to reopen will be made unless and until Tavern defaults on its obligations under the Agreement as extended herein. Upon filing of such application, paragraph 9 of the Agreement shall be deemed void and of no force or effect.

4. This Stipulation contains the complete agreement of the parties and shall not be modified except in writing executed by the undersigned attorneys.

5. This Stipulation is the result of negotiations among the parties and their attorneys and shall not be construed against the drafter.

6. Facsimile copies of the signature of the parties' counsel on this Stipulation shall be treated as originals for all purposes.

Dated: New York, New York

~~August 1<sup>st</sup>~~ July 1<sup>st</sup>, 2008

TAVERN ON THE GREEN LTD. P'SHIP  
d/b/a TAVERN ON THE GREEN

BY: \_\_\_\_\_


Michael Desiderio

\_\_\_\_\_  
Martha Nyakim Gatkuoth

[SIGNATURE PAGE CONTINUES]


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SO ORDERED:

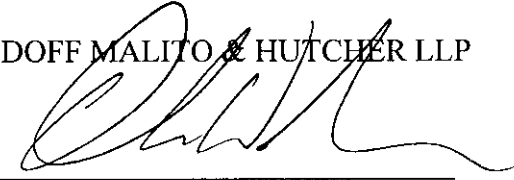
  
Hon. Andrew Jay Peck  
United States Magistrate Judge

copy to: Ad Council

LITTLER MENDELSON, P.C.

By:   
A. Michael Weber  
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DAVIDOFF MALITO & HUTCHER LLP

By:   
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Telephone: (212) 557-7200  
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## **EXHIBIT “A”**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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<b>EQUAL EMPLOYMENT OPPORTUNITY</b>	:
<b>COMMISSION &amp; MARTHA NYAKIM</b>	:
<b>GATKUOTH, Intervenor Plaintiff,</b>	:
	:
<b>Plaintiffs,</b>	:
	:
<b>- against-</b>	:
	:
<b>TAVERN ON THE GREEN LTD. P'SHIP</b>	:
<b>d/b/a Tavern on the Green,</b>	:
<b>Defendant.</b>	:
-----X	

**07 Civ. 8256 (AJP)**

**JUDGMENT BY  
CONFESSION**

Intervenor-Plaintiff Martha Nyakim Gatkouth intervened in this civil action by filing a Complaint in Intervention on December 20, 2007, a copy of said Complaint in Intervention having been duly served upon Defendant. The Defendant filed an Amended Answer to the Complaint in Intervention on May 13, 2008. The parties hereto have executed and entered into an Agreement and Release of All Claims signed on May 29, 2008, as well as a Stipulation Extending Time for Payment on August 1, 2008 submitted herewith, which extended the time to fulfill obligations under the Agreement and Release of All Claims until September 17, 2008, pursuant to the terms of which Defendant agrees to the filing and entry of a Judgment by Confession against them and in favor of Intervenor-Plaintiff as set forth in said Stipulation; it is

**ADJUDGED**, that the Intervenor-Plaintiff Martha Nyakim Gatkuoth, a resident of the City of New York, County of Bronx, has judgment against the Defendant Tavern

on the Green, Ltd. P'ship, in the amount of \$630,000.00, and that the Intervenor-Plaintiff have execution therefor.

**JUDGMENT ENTERED** this

\_\_\_\_\_ day of September, 2008

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U.S.D.J.